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S. 2097- LOCAL TV Act of 2000

Calendar No. 461

Reported from the Committee on Banking, Housing, and Urban Affairs on March 15, 2000, with an amendment in the nature of a substitute, by a vote of 19-0 (Senator Mack recused himself).

S. Rept. 106- 243; additional views filed.

NOTEWORTHY

- The Majority Leader intends to turn to S. 2097, Launching Our Communities' Access to Local (LOCAL) Television Act, on Wednesday, March 29 and would like to complete action by Thursday.
- A unanimous consent (u.c.) agreement reached last November provided that a loan guarantee bill regarding local television service to rural areas be brought to the floor for consideration on or before March 30, 2000. The u.c. also provided that the bill be open to relevant amendments, and that final passage occur after disposition of all amendments.
- S. 2097 establishes a \$1.25 billion loan guarantee program to facilitate access, in a technologically neutral manner, to local television broadcast signals in unserved and underserved areas. The bill would guarantee up to 80 percent of a loan that will be used to provide local television signals outside of the 40 most populated media market areas.
- A related bill, H.R. 3615, was passed by the House Agriculture Committee, but remains under consideration by the Commerce and Judiciary Committees.

BACKGROUND

While Congress last year passed the Satellite Home Viewers Improvement Act, allowing satellite companies for the first time to provide local broadcast signals to their customers, the bill did not provide incentives for assuring access to local broadcast stations to millions of

Americans in many rural areas of the nation — some of whom have no access by any means to local broadcasts. S. 2097 attempts to remedy the economic and policy conditions that make it costly to provide local television signals in rural areas with a focus on unserved and underserved markets (as defined in the bill's Section 9).

S. 2097 attempts to accomplish the same purpose as the Rural Viewer Amendment, a provision added in 1999 during conference on the Satellite Home Viewer Improvement Act (SHVIA, originally H.R. 1554). This Rural Viewer Amendment was considered necessary in part because the current satellite providers indicated their intention to provide local broadcast signals only to the largest market viewing areas (known as DMA's), thereby essentially negating the bill's impact on some 50 percent of American households, mostly in rural areas. Banking Committee Chairman Gramm objected to the loan guarantee because it was costly and there was not sufficient time for the Committee to consider the provision. SHVIA was eventually added to the FY 2000 Consolidated Appropriations Act [P.L. 106-113] without the Rural Viewer Amendment; however, through a unanimous consent agreement, the Chairman of the Banking Committee agreed to mark up loan-guarantee legislation prior to March 30, 2000. Towards that end, S. 2097 was introduced on February 24, 2000, the Banking Committee held two hearings, and the bill was marked up and passed unanimously (with Senator Mack recusing himself from voting) on March 8, 2000.

The loan guarantee program of S. 2097 is guided by three principles: (1) promoting service to the greatest number of households in areas that receive no local signals; (2) providing loans that are technologically neutral (i.e., that do not favor one type of provider over another); and (3) developing a program that is fiscally responsible.

BILL PROVISIONS

Section 1. Short Title

The bill may be cited as the "Launching Our Communities' Access to Local Television Act of 2000" ("LOCAL TV Act of 2000").

Section 2. Purpose

The purpose of the Act is to facilitate on a technologically neutral basis access to signals of local television stations in unserved and underserved areas (these terms defined in Section 9).

Section 3. Local Broadcast Signal Loan Guarantee Board

Establishes a three-member LOCAL TV Loan Guarantee Board ("Board") — the Secretary of the Treasury, the Chairman of the Board of the Federal Reserve System, and the Secretary of Agriculture, or their designees — which is responsible for determining which entities will receive loan guarantees under the Act.

Section 4. Approval of Loan Guarantees

Authorizes the Board to approve loan guarantees to the extent that funds are provided for in advance in appropriations acts. The Board is also allowed to delegate to the Administrator of the loans (that is, the Administrator of the Rural Utilities Service, as defined in Section 5) the authority to approve loan guarantees not exceeding \$20 million, provided that the Administrator complies with the terms and conditions of the Act. *[sec. 4(c)]*

To be approved, a loan must be: (1) used to finance the means by which local television signals will be delivered to viewers in an unserved or underserved area, and may not be used for operating expenses; (2) provided by a depository institution that is insured by the Federal Deposit Insurance Corporation (FDIC) and that is acceptable to the Board; and (3) repaid within 25 years or the economically useful life of the asset, whichever is less. *[sec. 4(d)(1), (2)]*

To protect U.S. financial interests, the bill requires the Board to make a determination that the collateral provided is equal to the unpaid balance of the loan amount covered by the loan guarantee. If such collateral is of a lower amount, then the collateral of an affiliate of the applicant must be added to the existing collateral. The Board must also determine in writing that all necessary and required regulatory approvals have been received for the loan and the project that is associated with the loan, that the loan would not have been available on reasonable terms and conditions without the guarantee provided under this Act, and that there is a reasonable expectation by the Board that the loan will be repaid. *[sec. 4(d)(3)]*

The Board is required to prioritize applicants with the highest priority for projects that serve the greatest number of households in unserved areas, and the next priority for projects that serve the greatest number of households in underserved areas. The Board is prohibited from issuing a loan for a project designed to serve one or more of the 40 most populated designated market areas. *[sec. 4(e)]*

The bill provides an aggregate value of \$1.25 billion for all loans for which loan guarantees may be issued, but otherwise there is no minimum or maximum value required for a loan guarantee. *[sec. 4(f)(1)]*

The Board may guarantee up to 80 percent of that portion of a loan that will be used to provide local television signals. The 80-percent loan guarantee may take one of two forms. The guarantee may represent up to 80 percent of a loan that comprises all (100 percent) of the debt associated with a project meeting the purposes of this Act. Alternatively, the guarantee may represent a full guarantee (100 percent) of a loan that comprises up to 80 percent of the debt associated with a project. Under this second scenario, the same lender must provide all of the financing for the project, including both the guaranteed and the unguaranteed portions. *[sec. 4(f)(2)]*

Section 5. Administration of Loan Guarantees

Provides that the Administrator of the Rural Utilities Service (Administrator) will be responsible for administering loan guarantees, including enforcing the terms and conditions specified by the Board and monitoring the performance of loans guaranteed by the Board.

Section 6. Annual Audit

Requires the General Accounting Office (GAO) to conduct an annual audit of the loan guarantee program developed pursuant and to submit the report to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking and Financial Services.

Section 7. Sunset

Prohibits the guarantee of any loan made after December 31, 2006.

Section 8. Retransmission of Local Television Broadcast Stations

Requires that if a local broadcast station requests carriage of its signal and is located in a market not served by a satellite carrier, the applicant shall carry the signal of that station without charge and be subject to the applicable rights, obligations, and limitations of Sections 338, 614, and 615 of the Communications Act of 1934.

Section 9. Definitions

Defines "unserved area" as "any area that - (A) is outside the grade B contour (as determined using standards employed by the Federal Communications Commission) of the local television broadcast signals serving a particular designated market area; and (B) does not have access to such signals by other widely marketed means."

Defines "underserved area" as "any area that - (A) is outside the grade A contour (as determined using standards employed by the Federal Communications Commission) of the local television broadcast signals serving a particular designated market area; and (B) has access to local television broadcast signals from not more than one commercial, for-profit multichannel video provider."

Also defines the terms "affiliate," and provides that other common terms used in this Act are to be defined as they are defined in the Communications Act of 1934.

Section 10. Authorization of Appropriations

Authorizes funds to be appropriated as necessary to carry out the Act.

ADMINISTRATION POSITION

No official Administration position was available at press time.

COST

The Congressional Budget Office estimates that implementing S. 2097 would cost about \$265 million for loan subsidy and administrative costs over the 2000-2005 period, assuming appropriation of the necessary amounts. S. 2097 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 2097 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

OTHER VIEWS

Senators Edwards, Dodd, Schmuier, Johnson, Bryan, Sarbanes, Kerry, Reed, and Bayh submitted additional views. While strongly supporting the goal of the bill, these Senators believe that Section 4 of the legislation should not include the requirement that the program be financed only through depository institutions that are FDIC insured. They argue that the final legislation should allow other lenders including venture capital firms, investment banks, or cooperative banks to provide loans.

POSSIBLE AMENDMENTS

Senator Johnson. Regarding requirements on eligibility of lenders (see Other Views, above).

Brownback. Broadband.

Other. Raising loan guarantee to 100 percent.

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